



IDAHO SOIL CONSERVATION COMMISSION

Bi-monthly Commission Meeting Tuesday, February 9, 2010

Idaho Soil Conservation Commission

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Governor

C.L. "Butch" Otter

Commission Members

J. Morgan Evans, Chair
Bill Flory, Vice-chair
Joe Davidson, Secretary
Dwight Horsch
Dick Bronson

Administrator

Sara Schmidt

DoubleTree Riverside Hotel
Cinnabar Room
2900 Chinden Blvd.
Boise, Idaho

10:00 a.m. Mountain Daylight Time

APPROVED MINUTES

Commission Members Present:

Dwight Horsch
Morgan Evans
Dick Bronson

Bill Flory
Joe Davidson

Commission Staff Present:

Sara Schmidt
Kristin Magruder
Dave Saxey

Lance Holloway
Justin Krajewski
Bill Lillibridge

Partners and Guests Present:

Harriet Hensley
Cody Anderson
Steve Becker
Steve Miller
Kyle Wilson
Kit Tillotsen

Randy Purser
Clint Evans
Steve Gabrielsen
Dennis Stevenson
Doug Colwell
Rick Ferguson

1 Meeting was called to order by Chairman J. Morgan Evans at 10:23 a.m.

2
3 Welcome and self-introductions followed. Evans apologized for the late start and reviewed the
4 agenda. Dick Bronson's confirmation hearing at the Senate Ag Committee was this morning
5 and Evans commended Administrator Sara Schmidt for her presentation to the committee.
6

7 **Joe Davidson reviewed minutes from the December 9, 2009 meeting. Davidson moved**
8 **to approve minutes. Bronson seconded. Motion passed unanimously.**¹
9

10 Schmidt stressed importance of getting future Commission meetings scheduled. Discussion
11 followed. Commissioners will attend as many of the upcoming Spring IASCD Division
12 meetings as possible. The Idaho Soil Conservation Commission (ISCC) Budget Hearing and
13 regular Commission meeting is scheduled for May 19 and 20, 2010.
14

15 ADMINISTRATOR'S REPORT

16
17 Schmidt presented the ISCC Administrator's Report. Schmidt discussed the need to
18 reprioritize the ISCC FY 2010 Strategic Plan due to extensive budget cuts and explained the
19 handout of the spreadsheet outlining the current Commission priorities.² Schmidt requested
20 that the Commissioners review the spreadsheet for discussion at a later meeting to reshape
21 priorities moving forward. Bill Lillibridge was introduced as the Acting Program Manager for
22 Northern and Western Idaho, covering the vacancy left by the retirement of Tony Bennett.
23

24 Schmidt discussed the Joint Finance and Appropriations Committee (JFAC) budget hearing
25 presentation set for Wednesday, February 10, 2010 at 8:00 a.m. at the Capitol.³ Highlights
26 from the presentation included: budget trends such as 2009 decreases of nine contract staff,
27 2010 unfilled vacancies left by retiring staff, and OnePlan seed money of \$7,500, which
28 allowed the director to secure alternate federal funding; the value of the technical staff; the
29 district need to maintain that staffing; and FY 2011 recommendations from the Governor's
30 office based on the draft legislation still pending before the Interim Committee.
31

32 Schmidt advised that she is trying to adjust the ISCC budget so staffing can remain intact and
33 that additional holdbacks can possibly come out of the Water Quality Program for Agriculture
34 (WQPA) allocations since project estimates are less than originally planned.
35

36 Discussion followed over concerns that ISCC would be locked into the proposed budget as
37 presented and it was discussed that the Governor is willing to revise his proposal once the
38 Interim Committee makes a recommendation on how ISCC should move forward.
39

40 Further discussion continued about the amount of money that is being passed through to the
41 districts and it was noted that ISCC increased funding to districts to \$800,000 last year, which
42 was higher than years past.
43

¹ Approved minutes are available upon request from ISCC or at www.scc.idaho.gov

² This spreadsheet is available upon request from ISCC

³ A copy of this presentation is available upon request from ISCC

Requests to the administrator of points to include in the JFAC budget presentation included discussing more about how the technical field staff assists the districts and the raw dollar amount of staff time that has not been accounted for previously.

There was discussion over the current draft legislation from Rep. Roberts now before the Interim Committee. Steve Becker, Nez Perce Soil and Water Conservation District, updated the Commission on his testimony on Monday, February 9, 2010 to the House Ag Committee. An inquiry was made whether the Commission has an official stance on the two pieces of draft legislation pending before the Interim Committee. The response was that the Commission's official stance is part of the minutes from the December 9, 2009 meeting, in which the Commissioners signed a letter addressed to the Interim Committee. There was further discussion about the political process from this point and issues of the pending draft legislations.

Steve Miller, President of the Idaho Association of Soil Conservation Districts (IASCD), announced that IASCD moved to support the current draft legislation from Rep. Roberts last night and will be moving forward to voice their support with the legislators and encouraging the districts to do the same. IASCD just sent a letter to all of the districts this morning along with a copy of the draft legislation being supported. It was stated that the Commissioners will support what is best for conservation in Idaho and for the districts.

Miller asked the Commissioners if there was any way the IASCD could support the position of the Commission. The response was that the official position on record is more in line with the second draft legislation than the first draft from December 2009. There was further discussion over the importance of backing the concepts rather than the legislation.

OVERVIEW OF STATE RULEMAKING PROCESS

Schmidt introduced Dennis Stevenson, Administrative Rules Coordinator for the Department of Administration, and the importance of the state rulemaking process. Schmidt used the district allocation process as an example of the need for rulemaking.

Stevenson began with the overview of the rulemaking process in the state of Idaho. Once the legislation (statutes) is in place, then the rules are written to define the process. Administrative rules are the procedure or practice requirements of an agency. Rules allow each agency to enforce the statutes and authorities either from the federal or the state level. Rules have the force and effect of law once they go through this process. Rulemaking is an authority granted to an agency through statute by the legislature. Statutes take precedence over Rules.

Stevenson further discussed negotiated rulemaking and the process. Negotiated rulemaking is the preferred method of rulemaking by the legislature when the content of the rule can be agreed upon by multiple parties. Temporary rules are a good idea when a rule needs to be adopted immediately and there is a public benefit from adopting said rule and does not need legislative approval. It will remain in effect until the end of the next legislative session. The Department of Financial Management (DFM) approves all agency rulemaking and decides

whether an agency may proceed with a temporary rule. As soon as possible thereafter, the agency must proceed with making said temporary rule a final rule.

Questions and discussion followed. Further discussion of various scenarios and the legislative process involved with those scenarios.

DISTRICT LIABILITY INSURANCE

Kristin Magruder, Idaho Soil Conservation Commission, gave an overview of the February 5, 2010 Memorandum to the Commissioners on the district liability insurance summary.

Pursuant to the request of the Commissioners at the November 18, 2009 ISCC meeting, an insurance quote was obtained from Idaho Counties Risk Management Program (ICRMP). On February 2 and 4, 2010, two informational conference calls were held to give each district the opportunity to learn more about the ICRMP insurance plan and proposal. The calls were moderated by Magruder, Rick Ferguson, Executive Director at ICRMP, and Doug Colwell, Harris Dean Insurance.

A summary of the current and proposed insurance plans were compared on coverage limits, maximum deductibles, and policy inclusions followed.

A recommendation was made by Magruder for ISCC to cancel the existing liability policies, recommend ICRMP as an option for district liability insurance, and to allow at least 90-days to allow the districts to secure coverage with ICRMP or choose another policy of their choice. Magruder also asked the Commissioners to consider financial support to the districts to pay for a portion of the insurance premium.

Discussion followed.

Davidson moved to follow recommendations to change district insurance as set forth in the February 5, 2010 Memorandum⁴. Bronson seconded. Discussion followed. Motion passed unanimously.

FINANCIAL UPDATE

Kelly Nielsen, ISDA Fiscal Officer, gave the ISCC Financial Report. Financials are only through December 2009 because January's numbers were not available yet.

ISCC is currently at 50% of their total appropriation for FY 2010, \$2,084,444. Personnel costs are at \$695,737, which is 1% under budget. Operating costs are at \$150,791, which is approximately 28% of total budget. The Resource Conservation and Rangeland Development Program (RCRDP) fund balance is \$1.1 million. Additional spending authority for federal grants in Salmon was approved and temporary staff can be retained.

⁴ The February 5, 2010 Memorandum is available upon request from ISCC

Discussed the 7.5% holdbacks called for by the Governor's office in December 2009. One-time monies were found to apply to that holdback and the recommendation is that the 7.5% holdback be permanent, which would be in line with the current holdbacks ISCC currently has in place. Schmidt commented on additional holdbacks LSO has advised may be required in the near future. Much of the holdback is coming from unfilled vacancies in personnel costs.

Horsch moved to approve the December 2009 financial report. Seconded by Davidson. No discussion. Motion passed unanimously.

Horsch moved to recess for lunch at 12:12 p.m.

Meeting was reconvened by Evans at 1:02 p.m.

PARTNER REPORTS

IDEA

The Idaho District Employees Association (IDEA) partner report was given by Magruder in Karma Bragg's absence due to illness. IDEA is now recorded with the Secretary of State's office and has a tax ID number. Bragg would like to access funds ISCC committed at the August 12, 2009 teleconference for training. IDEA has started a blog to allow better networking among members.

Several districts have reported issues with QuickBooks, including lost information, lack of access, and customer service taking a long time to provide assistance. IDEA is looking to ISCC for guidance on this issue.

IDEA Directors Meeting is being held on Monday, March 15, 2010 in conjunction with the IASCD Legislative Display Day on March 16, 2010.

Funding this year includes \$2,000 from the raffle, \$1,700 from IASCD, \$1,750 from member dues, and the remaining funding from ISCC. IDEA will continue to sponsor Envirothon and the Soil Judging Contest at \$500 each.

Schmidt recommended that ISCC include QuickBooks training as part of the agreement with IDEA.

There was further discussion on the IASCD legislative displays on March 16, 2010. Evans commented that a representative from the House Ag Committee was looking forward to seeing the displays this year.

IASCD

Steve Miller, IASCD President, gave the partner report for IASCD and thanked ISCC for their continued participation. At the Board meeting in January 2010, they discussed how to proceed with interim executive director position, exploring alternative funding for districts beyond grants, and looking for more creative ways to accomplish goals in light of budget cuts.

Evans made suggestion of looking at USDA grants as an option. Miller responded that they need some assistance in writing the grants and securing the funding through contacts.

NRCS

Clint Evans, Natural Resources Conservation Service (NRCS), reported on behalf of Jeff Burwell, who is out on leave. Application cutoff for Farm and Ranch Protection Program (FRPP) easement applications is coming up and there has not been enough interest in order to securing the funding. C. Evans has requested an extension to see if there is any interest statewide in this type of funding. For Environmental Quality Incentive Program (EQIP), Wetlands, and Agricultural Watershed Enhancement Program (AWEP) programs, February 12th is deadline to apply. NRCS is trying to promote wetland projects in the state as priorities have been set for that funding. \$10.2 million is budgeted for EQIP this year. NRCS is getting several requests for 2010 funding and inquiries for 2009 funds to be distributed. Priorities are shifting at NRCS for funding. Several vacancies in the field that will be advertised in the near future to get them filled. Discussion followed.

C. Evans discussed § 1619 of the 2008 Farm Bill, which was designed to protect landowner and land user privacy. This allows NRCS to have an agreement with partnering entities to discuss confidential information for program applicants and covers all employees of signing entity. NRCS is not required by law to disclose any information and this allows disclosure with partners in order to work on projects together. Discussion followed on how § 1619 protects the confidential information of landowners. Clarification from Harriet Hensley, Deputy Attorney General, that the protected information is a two-way street and C. Evans replied in the affirmative. Discussion followed about how to work with the information if the districts or partners do not sign the agreement. C. Evans replied that there are ways around the agreement if the operator takes the information directly from one entity to another.

There was further discussion about Open Meeting Law and bringing that protected information for discussion during board meetings. Hensley replied that executive session does allow for the discussion of information protected by federal law.

Lance Holloway, ISCC, stated that there is going to be training to cover this issue and Schmidt indicated that ISCC's agreement will not be signed until all employees have had the training and the Office of the Attorney General signs off.

WATER QUALITY PROGRAM FOR AGRICULTURE REPORT

Holloway gave WQPA financial update. Receipts and invoices have been limited due to the winter season and reviewed financials to date: Total allocation was \$924,522 with payments to districts totaling \$443,757 to date and \$213,897 being committed for future payments. Balance to commit is \$92,315 for the remainder of FY 2010. \$51,821 remains for WQPA administrative support, as the Watershed Advisory Group (WAG) budget of \$5,000 have been completely allocated for the remainder of the fiscal year and ISCC will need determine how to fund WAGs for FY 2011. Cooperative Conservation Partnership Initiative (CCPI) administrative allocation for FY 2010 was \$20,305 with \$8,645 left in the budget to commit.

Districts need to do some project reporting in order to be considered for CCPI and AWEF funding. The 319 funding application period begins in April and the staff will be working with the districts to leverage as much of that funding as possible. ISCC is still responsible for previously-dedicated match funds and the Department of Environmental Quality (DEQ) is evaluating what will happen to projects if ISCC can no longer meet those fiscal obligations.

Schmidt thanked Holloway for stepping up and taking on more responsibility with the Commission. Per DEQ, there are over 30 active 319 projects totaling \$30 million which have a Commission match of \$1.5 million. These funds have been committed since 2006, so some of the match funds have been paid out already, but ISCC needs to find out from districts what their needs are for assistance. Discussion followed.

RCRDP UPDATES

RCRDP Preliminary Loan File Review update is being put on hold because contractor Frank Arana was unable to attend today's meeting.

Dave Saxey, Loan Analyst, discussed the pending changes to loan policy. Section III.B.5.e discusses whether to allow second mortgages as adequate security. Discussion followed.

Section VIII.B.1 changes extensions of repayments from 60 to 30 days. No discussion.

Section VIII.B.5 discusses whether to require photographs of the collateral. Hensley lined out and added language to Section VIII.B.4 to allow for various documentation, which doesn't specify just photographs. Discussion followed. Language is to be included in the Standard Operating Procedures for the Loan Analyst and Administrative Assistant II positions outlining examples of the various documentation to be included with loan files.

Section 8.D documents a formal collection process and procedures prior to foreclosure. Discussion followed. Evans commented that this procedure is similar to banking procedure and recommends that it be included in rules. Hensley discussed options for policy. Discussion followed about special circumstances. If a borrower requested an extension, how is that request factored in to the collection timeline? Further discussion followed. Commissioners recommend that standard relationships with the borrowers become the norm and that there is consistency in the criteria for collection. Discussion followed.

Hensley offered to work with Saxey to tighten up the policy and process moving forward. It was noted that this proposed collection procedure language is in standard loan documents from other lenders and that it should be included in RCRDP loan documents signed by borrowers. Discussion followed.

The Commission requested that ISCC staff review the mortgage template for relevance and accuracy and to review the loan software to ensure that it meets all of the legal requirements of lending laws in the state. Discussion followed.

270 There was consensus among the Commissioners to finalize collection procedures in policy and
271 to adhere to said policy without fail.

272
273 The application form will need to be reviewed and put into policy. Discussion followed.

274
275 **Horsch moved to adopt proposed RCRDP policy changes with noted changes and to**
276 **review and revise as necessary at the next meeting for final approval. Seconded by**
277 **Davidson. Discussion followed. Motion passed unanimously.**

278
279 Saxey reviewed sample collection letters drafted by Hensley. Hensley added that the letters
280 were drafted prior to the collection procedures being added to the policy and new ones will be
281 drafted in accordance to policy change. Discussion followed.

282
283 Saxey discussed the financial summary for RCRDP. Interest on funds was \$827, interest on
284 payments was \$31,288, principal payments received was \$145,863 for a total adjusted cash
285 balance was \$1,270,518.

286
287 Ending cash balance as of January 31, 2010 was \$1,270,518. 3% minimum contingency
288 account balance is \$254,753. Outstanding RCRDP principal balance as of January 31, 2010
289 was \$8,491,789.

290
291 The Commission directed staff to make policy on loan commitments to include a tracking
292 system on loan obligations and requests for extensions.

293
294 Review of cash flow report from January 1, 2010 through FY 2014. Total account balance as
295 of January 31, 2010 is \$1,269,691. Current projections have account balance in FY 2014 at
296 \$6.3 million.

297
298 **Horsch moved to accept RCRDP cash flow report. Flory seconded. Motion passed**
299 **unanimously.**

300
301 **Evans called for 15 minute break at 2:43 p.m.**

302
303 **The meeting reconvened at 3:00 p.m.**

304
305 **Davidson moved to entered Executive Session pursuant to Idaho Code § 67-2345(d) to**
306 **discuss pending RCRDP loan applications. Bronson seconded. Roll call vote was**
307 **taken: all voting in the affirmative.**

308
309 Harriet Hensley, Sara Schmidt, Kristin Magruder, and Dave Saxey were invited to stay.

310
311 **Moved into Executive Session at 3:02 p.m. to discuss pending RCRDP loan**
312 **applications.**

313
314 **Horsch moved to end Executive Session pursuant to Idaho Code § 67-2345(d).**
315 **Seconded by Flory. All voting in the affirmative.**

RCRDP PENDING LOAN APPLICATIONS

Commissioners discussed disposition of pending RCRDP loan applications.

Loan No. 1

Amount: \$60,000

Term: 5 years

Rate: 3%

Project Description: Purchase of larger drill to implement direct seed with greater efficiency

Flory moved to approve Loan No. 1 as outlined in the Lending Officer Recommendation in include, but not limited to, the Approval Conditions as listed on page 1-1 of the loan packet. Horsch seconded. Discussion followed – chattel collateral is acceptable for loan. Motion passed unanimously.

Loan No. 2

Amount: \$80,000

Term: 10 years

Rate: 4%

Project Description: Purchase of pivot and handlines; installation of pipes, pump and water control

Davidson moved to deny Loan No. 2. Flory seconded. Discussion followed – does not meet the standards of the loan rules of the RCRDP program. Motion passed unanimously.

Loan No. 3

Amount: \$125,000

Term: 7 years

Rate: 4%

Project Description: Install 4 pivots along with pipe, mainline, pumps and motors

Flory moved to deny Loan No. 3. Davidson seconded. Discussion followed – does not meet current loan rules of the RCRDP program. Motion passed unanimously.

Loan No. 4

Amount: \$34,000

Term: 7 years

Rate: 4%

Project Description: Install pivot and pipeline

Horsch moved to deny Loan No. 4. Flory seconded. Discussion followed and the reason for denial is the unknown signature liability on co-signed loan. Motion passed unanimously.

Loan No. 5

362 Amount: \$29,414.85

363 Term: 7 years

364 Rate: 4%

365 Project Description: Install pipeline to livestock watering troughs; install pumping facility and
366 power; install well and power; install cistern

367

368 Deliberation over Loan No. 5. Discussion over debt-to-income ratio and cross-collateralization
369 of equipment on prior loan.

370

371 **Davidson moved to deny Loan No. 5. Flory seconded.** Discussion followed about the lack
372 of assets to debt load. Saxey advised that FSA will do a resubordination to get applicant this
373 loan. Davidson requested to be excused due to a prior commitment. Further discussion about
374 the possibility of securing more collateral on this loan. **Motion failed.**

375

376 **Horsch moved to approve Loan No. 5. No second, motion failed.**

377

378 **Horsch moved to hold Loan No. 5 for reconsideration at the next meeting. Flory**
379 **seconded. Motion passed unanimously.**

380

381 A-296A Loan Modification

382

383 **Bronson moved to deny Loan Modification of Loan No. A-296A. Flory seconded.**
384 **Discussion followed to determine whether there was a timely request made by the**
385 **borrower. Further discussion about the landlord/lessee relationship. Motion carried**
386 **and passed unanimously.**

387

388 Horsch stated that if this denial puts the borrower into foreclosure and has no other options,
389 then borrower should request a 30-day extension.

390

391 **Pursuant to Idaho Code § 9-340A(1) and § 1619 of the 2008 Farm Bill, Horsch moved to**
392 **redact the names of the RCRDP loan applicants from the November 18, 2009 minutes.**
393 **Flory seconded. Motion passed unanimously.**

394

395 Schmidt stated that staff is working diligently to ensure that the Commission is following policy,
396 securing collateral, and tracking appropriate loan information.

397

398 Saxey inquired what chattel values the Commissioners deem acceptable for collateral on
399 loans. Evans responded that the Commission needs recommendations from staff to consider.

400

401 Discussion followed about the value of second mortgages as collateral on loans in today's real
402 estate market. Consensus among the board that being conservative in the parameters of the
403 loan requirements is prudent in today's market conditions in order to secure the assets of the
404 Commission. Collateral in the form of chattel or first mortgage is preferred and most likely to
405 be approved by the Commission.

406

407 Evans thanked the staff and legal counsel for their work and support and the dedication of the
408 Commissioners.

409
410 **Bronson moved to adjourn the meeting. Horsch seconded. Motion passed**
411 **unanimously. Meeting adjourned at 5:06 p.m.**
412

413 Respectfully submitted,

414
415 Joe Davidson
416 Commissioner and Secretary,
417 Idaho Soil Conservation Commission